

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

DONALD GREEN,	§	
Petitioner,	§	
	§	
VS.	§	CIVIL ACTION NO.4:06-CV-361-Y
	§	
NATHANIEL QUARTERMAN, Director,	§	
T.D.C.J., Correctional	§	
Institutions Div.,	§	
Respondent.	§	

ORDER ADOPTING MAGISTRATE JUDGE'S FINDINGS AND CONCLUSIONS

In this action brought by petitioner Donald Green under 28 U.S.C. § 2254, the Court has made an independent review of the following matters in the above-styled and numbered cause:

1. The pleadings and record;
2. The proposed findings, conclusions, and recommendation of the United States magistrate judge filed on March 7, 2007; and
3. The Petitioner's written objections to the proposed findings, conclusions and recommendation of the United States magistrate judge filed on March 29, 2007.

The Court, after de novo review, concludes that Petitioner's objections must be overruled,<sup>1</sup> and that the petition for writ of habeas corpus should be dismissed with prejudice as time-barred under 28 U.S.C. § 2244, for the reasons stated in the magistrate judge's findings and conclusions.

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<sup>1</sup>Green's primary objection is his contention that as he does not challenge his judgment of conviction, he is not subject to the limitations provision, 28 U.S.C. § 2244(d). That argument has been directly rejected. See *Kimbrell v. Cockrell*, 311 F.3d 361, 363-64 (5<sup>th</sup> Cir. 2002) ("The language of § 2244(d)(1) is also easily applied across-the-board to petitions attacking the prisoner's conviction as well as the calculation of time served. The objects of both petitions are the same: a shorter confinement pursuant to the original judgment. The provision accordingly limits the period for filing any § 2254 writ application by a "person in custody pursuant to the judgment of a State court". Since [petitioner's] custody arises from such a judgment, and a favorable outcome for him in this disciplinary case would affect the time served under that judgment, Section 2244(d)(1) literally applies.")

Therefore, the findings, conclusions, and recommendation of the magistrate judge are ADOPTED.

Petitioner Donald Green's petition for writ of habeas corpus is DISMISSED WITH PREJUDICE.

SIGNED March 30, 2007.

A handwritten signature in black ink, reading "Terry R. Means", is written over a horizontal line.

TERRY R. MEANS  
UNITED STATES DISTRICT JUDGE